89-1017

Supreme Court, U.S.
FILED
MAY 15 1989
JOSEPH F. SPANIOL, JR.
CLERK

NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER Term, 1989

FLOSSIE W. NZONGOLA,
Petitioner,

v.

THE SUPERIOR COURT OF FULTON COUNTY,
STATE OF GEORGIA,
Respondent.

PETITION FOR WRIT OF CERTIORARI,
SUPERIOR COURT OF FULTON COUNTY

FLOSSIE W. NZONGOLA
PRO SE

P. O. BOX 43006
WASHINGTON, D.C. 20010
TELEPHONE NO.: NONE

QUESTIONS PRESENTED FOR REVIEW

1. Can a trial level court of the State of Georgia enter an order that is not appealable then expect another court, namely The Supreme Court Of the United States to make the necessary correction in their errors in the hope that that Court not accept the agrieved party writ of certiorari, and if not granted they would be rid of the problem?

2. Can a trial level Court in Georgia enter an order that is not appealable, then enforce that order by leaving the agrieved party the right to file further motions, pleadings etc. in that matter?

3. Can a trial level court of the State Of Georgia, continue for more than eight (8) years not to litigate the case as required by law, dealing with the action?

4. Can a trial level Court, of the State being The State of Georgia, enforce a barment order, and refuse to enforce an out of State order by giving full faith and credit to the parties of that case?

5. Can a trial level Court of the State of Georgia, enter further orders when the Court of a sister state forbids such action, and is authorized, under Full Faith and Credit clause. (this No. 5, is not for review but is to be used to understand complete case), that matter is now being reviewed by the Superior Court of Fulton County for damages.

6. Why is Georgia means of Jurisdiction limited to service; when all other states must abide by much more?

7. Can an appellate level Court of Georgia, fail to correct the mistakes and errors of one of it's trial level Courts?

8. Can this case be reviewed on a crimioinal basis after review here in Civil, bu the Right of the Court under this Petition? Can the behavior of the other Court Officials be reviewed, (including judges)?

9. Was this case fixed? Was this a normal case of Divorce in Georgia? It appears so, if not why has this happen? And why has it been delayed longed.

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IN THE
SUPREME COURT OF THE UNITED STATES
_____TERM 1988

No. _____

Flossie W. Nzongola
Petitioner

vs.

Superior Court of Fulton County
Respondent

ON WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEAL
FOR THE FIFTH CIRCUIT, FROM
THE SUPREME COURT OF GEORGIA

The Petitioner, Flossie W. Nzongola, Pro Se not by choice, requests that a Writ Of Certiorari be issued to review the Judgment of The Supreme Court of The State of Georgia's denial, of her case for Writ Of Certiorari, in any form, that of a Interlocutory Order when their Rule 22 (2) applies to this Petitioner, and reads as follows; an application for leave to appeal an Interlocutory Order will be granted only when (2), The Order appears erroneous and will cause a substantial error at trial, ...

or as a Discretionary appeal of Final Judgment, Rule 25, (1) Reversible error appears to exist, therefore this Petitioner needs your assistance in this grave matter beyond her control and commence as such:

OPINION BELOW AND STATEMENT OF JURISDICTION

The decision of The Supreme Court Of Georgia from which the Certiorari is sought was entered February 14, 1989, The time for filing this Petition is thru and including May 14, 1989. The jurisdiction of this Court is invoked Pursuant to SUPREME COURT RULE 21.

RELEVANT STATUTORY PROVISIONS

The Petitioner herein, was awarded a Final Decree Of Divorce, and was denied Alimony in her failure to appear. The grounds for the Divorce was that the Marriage was irretrievably broken, and the Plaintiff (the husband) seeked an absolute divorce. The divorce was obtained under Georgia Code Section 19-5-5.

The specific Georgia Code section relevant to this petition are:

1. Georgia Civil Practice 9-11-60; Relief From Judgment Page 365, 366, May be obtained by several methods:

A. by Collateral attack.

B. Methods of direct attack.

C. Motion for New Trial.

D. Motion to Set Aside.

E. Complaint in equity.

F. Procedure Time of Relief.

G. Clerical Mistakes.

H. Law of the case rule.

The Supreme Court of Fulton County has refused to set-aside The divorce or any portion of the Divorce decree. The Decree was entered June 25, 1980, and on December 29, 1980, under the Provision (d) as listed herein, refused to act properly, with regards to their own Provision, or the rights of the Defendant (the wife) under the Fifth, and Fourteen amendment of the U.S. Constitution, And has continued for more than eight years, upon motions, pleading, requests, etc., to set aside any portion of that divorce decree, and has further broken the USC Code, two (2) additional times dealing with Full, Faith, and Credit.

THE FOLLOWING LAWS PROHIBITED SUCH ACTS:

a. Georgia Civil Practice 9-11-60 Methods.

b. The Fifth Amendment to the United States Constitution.

c. The Fourteen Amendment to the United States Constitution.

d. Article IV, Section 1. to the United States Constitution.

STATEMENT OF THE CASE

I, Flossie W. Nzongola, come as clearly as I can to this court, now, the highest court in the United States of America, to have this court correct, The Superior Court of Fulton County, and The Supreme Court of The State of Georgia, both or the one as this petition set forth, with damages at double cost.

The Superior Court Of Fulton County, and the Supreme Court Of Georgia knowing well the situation of this petitioner will not correct their Order, to give petitioner the relief needed, and instead of relief has cause the situation to worsen, and prolong. This part of the case commenced on June 25, 1980, and the relief has been delayed and continues to be delayed. This petitioner has made a number of requests to the State Government for redress of grievances, they have looked the other way doing nothing and moving about their business, for going on

nine years. In 1985, after a long search for an attorney, the court barred any further litigation in the case and the long search for an attorney refused prior to that barment from any litigation, to appeal their continuous denial of the case or to attack the barrment order, this petitioner spent many months talking with the office of the Attorney, and filing in the Superior Court of DeKalb County, and nothing was done. The local churches in the Atlanta area came up with the funds to assist me with his legal fees. Now, without an Attorney, that search began again with no avail, I again seeked the local governmental agencies in Georgia, none would assist. I then went to the United States Congressman, Mr. John Lewis's Office, I had to push them real hard to get the research done that I needed, but it was done. In 1988, this petitioner was barred from Georgia State Capitol and labled a

Security Risk, with no justification. These Court have done some of everything to prevent the relief sorted by the petitioner in the Case.

The original case of The Superior Court of Fulton County is known as C-61059. The Final Decree was entered June 25, 1980. That order was entered **UNAPPEALABLE**, and has remained that way for more than eight years. This Petitioner has been making requests of that Court and The Supreme Court Of Georgia, among others in Georgia for the relief from that Judgment. All the courts have refused within their powers, if any; to give the relief. No adequate relief can be had in any other form, from any court, other than this court, The Superior Court of Fulton County, and The Superior Court of Georgia have gone so far as to disregard the research done by the United States Congressman Office in Washington, D.C., I mean would not even

place it in their files, as a part of that court's records. The same was done with the Superior Court of the District of Columbia's Order, they even litigated the case based on the order, but did not place it in the records, (See the June 2, 1981, Superior Court of Fulton County order) the results of the December 29, 1980, hearing. Ever since the June 25, 1980 Order was entered, this Petitioner had to go back and forth from Washington, D.C. to Atlanta, Georgia to locate an attorney, since she had to request her resignation for difficult reasons, the second time after her new Attorney (who only last through one hearing), requested her to come for a hearing set for December 29, 1980 and then resigned from the Case.

I searched for an attorney to no avail, for years I requested of the Courts to appoint one, they could not make an Attorney take a case were their answers.

Therefore, I was compelled to come back and forth, over and over again and again for nothing other than being considered crazy. Now it's going on nine (9) years and I have no order to take back to the Superior Court Of the District Of Columbia, for a resolution in my Case Number D-857-80.

The first hearing since the June 25, 1980 Final Order, was held December 29, 1980, and served to be fruitless, a total disregard for the wishes of this petitioner and for the Superior Court Of The District Of Columbia's Order. The Superior Court Of Fulton County refused to hear the issues as they were, and as it was presented; in addition they waited six (6) months to enter an Order for litigation further in said case on issues of their court, other than what was requested of them by the Superior Court of the District of Columbia and that request was to remove the lines, "the defendant is

entitled to no alimony in her failure to appear"; (See the Final Decree dated, June 25, 1980), The judge Charles Weltner, disregarded the D.C. Order and this Petitioner's rights, under the Fifth and the Fourteenth Amendments, and Article IV, Section 1 and further it's own Code Section, the court chose to disregard the following:

1. resident must conitute:
   a. Choice;
   b. Intentions;
   c. concurrence of actual residence and intention to remain to acquire domical;
   d. a person permanent residence, to establish in a fixed residence;
   e. place for permanent place of habitat.

2. Understanding of the Georgia Code Section "in regards to this Petitioner":

a. In an action for Divorce it is necessary to alledge correct venue, and make affirmative proof thereof;

b. In a No-Fault divorce, if there is an issue of fact either party is entitled to a jury trial, and the judge (assigned) must set for trial;

c. In No-Fault in the State of Georgia on grounds that marriage is irretrievably broken, Alimony is authorized, and the question only remaining is amount. That is determined by Jury at trial; in such a case misconduct is not irrelevant to division of property between parties.

d. A divorce granted by a Court having no jurisdiction on the subject matter and the parties involved is a nullity; Article IV, Section 1, also was omitted.

My first attorney had certain duties and did not perform all the required duties of her job, she told me by telephone to Washington, that a Georgia Divorce could not be obtained and property settlement could not be done unless both parties were present;

She further told me that a Georgia divorce could be obtained with one party, I later found out that the party not present had up to three (3) years to set-aside the Order and all the other requirement was read by me in the Georgia Code Section, and known by common sense.

At the December 29, 1980 hearing, as it remains today the Superior Court Of Fulton County and the Superior Court of Georgia follows in their footstep, and stands firm on their decision. This Petitioner has filed under Georgia Code Section 9-11-60 for relief from that judgment beginning December 19, 1980 to the present and the relief requested, even though the law of Georgia

states that if a request is made it can be made in eight (8) different ways, well known to attorneys and most of all, the Courts. In the writing of any Order, the right of appeal must be made available. In the June 25, 1980 Order no such act was made available to this petitioner. The attempt on the part of this Petitioner to the highest court in the State, and others do nothing to correct the order when all others have failed, one has only one possible solution that is this Court. It is a fact that no Georgia Attorney will follow through with this case it's not the fault of this petitioner, they have their own personal and professional problems. Therefore this Petitioner comes here pro-se not by choice. The Supreme Court of Georgia the Highest Court in Georgia has refused many times to hear this case even more than seven years ago, therefore this petitioner has tried ever since and will continue to do so. Never

had the governmental agencies given any assistance; Georgia has sworn to uphold the United States Constitution; Georgia has sworn to give Full Faith and Credit to another out of State Order. Georgia has by it's power in advance has taken jurisdiction (divorce action being ex-parte). It appears that the Superior Court of Fulton County knew well what they were doing in that case. To set the records straight on the jurisdiction question of the case even though by and through attorney (first) the court was well aware, this petitioner tried and failed. The Attorney in addition warned the court that such jurisdiction action would serve an injustice to the petitioner, and her minor child, Georgia declined and proceeded forward. The petitioner did not herself give any information in the case until the December 29, 1980 hearing, and told the Court (Superior Court of Fulton County) that the injustice had avail, and

had serve the injustice, that was trying to be prevented from existing, Georgia proceeded to inflict more injustices on this petitioner. Georgia stood firm on it's decision, and entered two (2) more orders one on June 2, 1981 the supposedly results of the December 29, 1981 hearing, that hearing serve as no propose to the D.C. Courts nor the Petitioner, because the order did not serve any propose to the D.C. Court the Petitioner returned to Georgia for a corrective Order, or another Order. Georgia did no correction instead Georgia entered another Order: See Order of September 22, 1981, disregarding the D.C. Court Order, retaining jurisdiction over is still in effect; and Georgia today still stand firm with nothing to base it's actions. During the first 30 days of the Complaint Georgia became angry for the first time; it again became angry during the six (6) months the petitioner awaited the results of the

December 29, 1980 hearing. Georgia became angry and also during that December 29, 1980 hearing, Georgia became calm for the first time just before the September 22, 1981 Order, and became angry again when the petitioner ---- the change in both the Orders, and was angry for a long time and did nothing, then something happen in 1987 and they were angry, but did not show that anger, again until December of 1988, that month's Order made this case possible.

Now, here we are after the research was done by the United States Congressman's office Washington, D.C., (John Lewis); Georgia stands firm on their Order and has made no indication of making any change in that Order.

In December 1988, the Superior Court of Fulton County entered an Order continuing it's Bar-ment of the case and stated that if

any motions Pleadings etc., was filed, it would be considered fivrlous; and this petitioner if she wanted to filed would have to pay the cost herself. That Order has made this case possible.

REASONS FOR GRANTING THE PETITION

PROPOSITION I

IN THE RULING 9-11-60, GEORGIA CIVIL PRACTICE, Fifth Amendment to The United States Constitution, Fourteen Amendment to the United States, EVERY INDIVIDUAL, IN CIVIL AND DIVORCE CASES HAVE A RIGHT OF APPEAL, THE SUPREME COURT OF GEORGIA, HAS DECIDED THAT THEY WILL NOT ENFORCE THAT CONSTITUTIONAL PROVISION. THIS IMPORTANT PROVISION CAN'T BE SETTLED BY ANY COURT IN THE STATE ALL COURTS IN GEORGIA HAVE REFUSED TO ENFORCE THAT PROVISION, FOR MORE THAN EIGHT YEARS.

The order of June 23, 1980, was entered, "Final Decree for Divorce and in ink" The defendant (this petitioner) has no alimony, her counter-claim being dismissed in her failure to appear. When that Order was entered the Superior Court Of Fulton County was well aware that a divorce Order as such could not be appealed without setting aside the complete divorce. The fact that the alimony, child support, personal and real property was out of their jurisdiction and

rested solely with the Superior Court of the District of Columbia served as of no value to the Georgia Court; in respect to future effect of any Order that the D.C. Superior Court might enter in their case with all disrespect for the United States Constitution; and that of another Court. The fact that, Court has no jurisdiction at the commencement of the Divorce too was of no value, further that (the defendant, the wife) had up to three years to set-aside the divorce too; served no value.

PROPOSITION II

IN THE WRITING, WORDING AND EFFECT, IN RESPECT TO THE FIFTH, AND FOURTEEN AMENDMENT TO THE U.S. CONSTITUTION. THAT COURT'S ORDER OF JUNE 25, 1980 ENTERED BY THE SUPERIOR COURT OF FULTON COUNTY, STATE OF GEORGIA, ARTICLE IV SECTION 1, FULL FAITH AND CREDIT

Order Unappealable, leaving child support available, with no mention of person, real property, and all others, yet litigating ONLY the issues of Alimony, when well aware of the issues of:

1. Child Support
2. Alimony
3. Property

should have been a part of a Georgia Divorce (all). Further, that the D.C. Courts were already under litigations of those matters, they were aware where the litigations were being disposed of: When the Order was presented titled Superior Court Of The District of Columbia. True enough on June 25, 1980, there was no Order entered at that time by the D.C. Court, but had only the

attorney's word of the above litigation. But on July 1980 that court's Order was made known by and through a Georgia Attorney to the Superior Court of Fulton County on December 29, 1981 and that Court's reaction was only, "I can't change that Order," the plaintiff (the husband) might be re-married and later to imply that the D.C. Order was not worth the paper it was written on. "No State shall make or enforce any law which shall abridge the privileges of immunities of Citizens of the United States, nor shall any State deprive any person of life, liberty or property, without due process of law."

PROPOSITION III

IN THE RULING COMMON SENSE LACK OF JURISDICTION, (PLAINTIFF, NO DEFENDANT)

Neither parties were Bon-Fide residences of The State of Georgia, at the time the complaint was filed or at the time the court entered it's Final Decree for Divorce; Nor during any of the litigations negotiations etc., that brought about that Final Decree Judgment. The case was filed February 12, 1980, the Final Decree Judgment was entered on June 25, 1980, (that was the ONLY part of the case that proceeded with any speed). The American way is that one (in this kind of Case the court) must prove that the defendant and the Plaintiff both are residents of their Particular State before any litigations can be entered in their behalf. The fact that the defendant could not participate at the time was of no concern to the court; and the willingness of the defendant later, served of no value,

only serve to be placing the Court in a difficult position. The defendant did not participate, for reasons well known to the Court; (the Superior Court of Fulton County), the court disregarded those reasons of the defendant as did the D.C. Order of July 3, 1980, to not place the Order in their records, shows that they in fact placed no value on that Order, "disrespectful". Disregard for intent, choice and due process of law.

PROPOSITION IV

IN THE RULING ARTICLE IV SECTION I UNITED STATES CONSTITUTION FULL FAITH AND CREDIT, (ONLY IN RELATION TO PART I OF THIS CASE, PART II NOW BEING LITIGATED AS CASE D-63768 SUPERIOR COURT OF FULTON COUNTY. JUDGE SEARS-COLLINS)

Full Faith and Credit, (Now being litigated as Case D-63768 Superior Court of Fulton County - Judge Sears-Collins). The Constitution Of The United States Of America's Analysis and Interpretation, 1982 and Article IV, Section 1. Full Faith and Credit shall be given in each State to the Public Acts, Records and judicial Proceedings of every other State. And the Congress may be general and Prescribe the manner in which such Acts Records and proceedings shall be proved, and the effect thereof. This Petitioner requests that no litigation is needed at this time; since this case has been filed based on the denial judgment and that Case on two further orders that has not stopped this court from litigation on the first Order of July 3,

litigation on the first Order of July 3, 1980, in relation to this Case and as has been considered as part I of that Fulton County Case Known as D-61059. Full, Faith and Credit Proceeding is filed as Part Two (2); and this time the Superior Court of Fulton County appears to be awaiting this court's decision of this Part I before entering a judgment in their Part II. Further, if that case is not favorable, as it is should be, (1), this Petitioner will bring that unfavorable result to this court also for favorable resolution. This court has the Power to make decisions, I can't. This is my request, I have asked the Superior Court to rule before this Case, if filed, so I will not have to be inflicted with additional cost, if any to this court's no ruling.

PROPOSITION V

BAR-MENT, REFUSAL TO LITIGATE CASE C-61059 No case to be heard of by research done by Georgia Attorney, Having only his Official word for this results. A refusal to litigate, it's own case properly at or upon request by pleading, Motions, Proceedings, etc., by the defendant that have listed in their case, Known as C-61059. Just won't do anything, get angry if the case is mentioned in a way to bring about a resolution favorably, delay, poke around, avoid, etc., do anything to get out of doing what is right, to correct it's own Order, even their own court of correction. No, due Process of Law proper. Exceptance of the case they have a right to hear and dipose of properly. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life,

liberty or property, without due process of Law"; (Fourteen Amendment to the United States Constitution), nor be deprived of life, liberty or property, without due process of law; (Fifth Amendment to the United States Consititution), "In that case a house and land", the Superior Court of Fulton County failed to give full faith and Credit to the D.C. Order to prevent this Petitioner from being deprived of her property. Further, Article IV Section 1, Full, Faith and Credit shall be given to the public acts, Records, and judical proceeding of every other state, and the Congress may be general laws prescribe the manner in which such acts Records and Proceedings shall be proved, and the effect thereof."

PROPOSITION VI

CONTINUOUS BAR-MENT, DECEMBER 1988 AND DENIAL OF RIGHT TO FILE IN FORMAL PAUPPERS ANY MOTIONS ETC., AND GAVE ORDER AND OPINION THAT IF ANY FURTHER PLEADINGS, MOTIONS ETC. THAT WOULD BE FILED TO BRING ABOUT A RESOLUTION OTHER THAN WHAT WAS ALREADY DECIDED TO THE FULTON COUNTY CASE C61059 WOULD ONLY SERVE TO BE FRIVOLOUS No case to

No case to be heard of by research done by Georgia Attorney, have only his official word for this results. The refusal to litigate, it's own case, properly at or upon requests, by Pleadings, Motions, Proceedings etcs., by the defendant and even upon research done by the United States Congressman Office (John Lewis) Washington, D.C. Democrat, Georgia. Request was made December 1988. The results were denied and further to give in that denial Order it's opinion, "that any further pleading in the case would serve to be frivilous", and that all the expenses must be paid by the (Defendant) being this Petitioner has been given no consideration as to whether the (Defendant) can pay or not, when under her

rights, she has the right to file in forma-paupers, if she so desire, and the court must consider the request; the Court has barr this Petitioner from filing as such. No due Process of Law. Failure to give full, faith and credit, when Article IV Section 1 states: "Full Faith and credit", shall be given in each State to the Public Acts, records and judicial proceedings of each other State. And the Congress may be general laws prescribe the manner in shich such Acts, Records and Proceedings shall be proved, and the effect thereof. Failure to, give this petitioner her rights under the Fourteen amendment of the United States Constitution, No State shall make or enforce any law which shall abridge the privileges or immunities of Citizens of the United States, nor shall any State deprive any person of life, liberty or property, without due process of law.

IN CONCLUSION

For the reasons stated above, this petitioner respectfully requests that this Court bring this Part I of the Superior Court of Fulton County Case known as C-61059-80 to it's conclusion since that Court nor the Superior Court of Georgia, the Highest Court will not, and this Petitioner lastly states as follows:

The C-61059-80 Georgia Case has caused this petitioner pain and suffering beyond written explanation. My hope is only is only that this Court gets enough from this Writ that it sees fit to impose damages to compensate for the delay and the damages the petitioner has been required to endure.

Georgia has managed to have this petitioner think it was unaware of their laws and that of the Federal Laws which applies to this

petitioner's case there. Georgia has managed to make this petitioner feel she was and still is out of her mind; all the court official, and courts react in the same manner. Georgia has managed to make this petitioner except opinions, actions and orders not at her own request and has made them appear as if they were her very own. This has been embarrasing and has served to humiliate this petitioner, Further, the fact that the Court and it's officials would not hear, see or do something served to be a mix-up beyond human beings, sometimes things that were said one day, were not said the next, and if they were said half was missing, no one could be found that said it, nor when. This form of harrassment was exhausting and fustrating, and caused this petitioner serious pain, physical pain and the pain still remains today. The most painful was the waking up process that is to find out they infact knew the laws but just

was not going to do anything about their actions. The long delay now is not knowing whether this Writ will be accepted and what will I do, if it's not. This gives me grave pain, and I want this part I to come to an end. The idea that Georgia could continue to inflict pain is also of grave concern to this petitioner. Georgia has, without just cause, barred this petitioner from it's State Capitol Building, and has had this petition labeled as a security risk. It is the feeling that Georgia's intentions are to cause further pain, if allowed. To Insure my motor vehicle in this State has been a serious problem. This could be one of the ways they intend to inflict pain.

If this writ is excepted I am sure to have problems, but those I can live with. Any such unethical infliction of pain must be prevented. It is a fact that the Superior Court of Fulton County and the Superior

Court of the State of Georgia don't care about me, but it's Georgia's people that I will have to come in contact with and I do very well with them. If the State does not, I don't see any future problems.

Georgia does not care about people, places or things; interpretation of the laws is not their major concern. On or about December through February 1989, the Superior Court of Fulton County denied lifting it's barment of this Petitioner's case there known as C-61059-80. It made a claim that had the petitioner come from Washington, D.C. for the hearing, things would have been different. The Judge of that State knows, and he stated and wrote in his order that any further litigation, motions, pleadings would be to fivorlous, and any cost would have to be paid for by this petitioner. That order deprived this petitioner the right to file in forma pauper, even if she could get

a petition filed, and if filed it would be denied. I tried by and through a Georgia Attorney to find a way to file a case against the barment in the State of Georgia. That attorney stated he could not, becasue it had never been done before. I know that a valid case such as this on the merits as stated herein should be able to be filed and a hearing held. It is a fact that the Georgia Superior Court of Fulton County would rather violate this petitioner's Rights under the Fifth, and Fourteen Amendment rather than set-aside it's order in it's entirety or any part, the Superior Court of Fulton County is practicing law of its State, in a different fashion, rather than in the fashion as set forth by it's Code Section, and the State is well aware and is doing nothing. The County and the State applies no United States Constitutional law provision in litigation of their cases, it's like Federal

Constitutional law are in no way a part of their decisional scope. The Superior Court states the plaintiff (the husband) might be remarried, at the December 29, 1980 hearing; what is that? No appeal? who is that? How can that be? the lines requested by the Superior Court of the District of Columbia, for removal, can't be removed, then why was it placed in a fashion to be non-removable? It has not been till 1988 that the Georgia Attorney under cover, told me that those lines can't be removed without the Divorce being set-aside, then why was the order written in such a fashion? An appeal is impossible in such an order, the duties of the husband to provide for his family can't be done, child support seize to have a helping hand and must function alone, on the part of a father who can provide and has provided more than $600.00 per month. A proper and well adjusted life style is impossible in such an Order. It is a fact

that those courts (Superior Court and The Supreme Court of Georgia) will not set-aside the Divorce or any part thereof. No one can do anything with the State of Georgia with the attitude it has taken, and has proven through their City, County and Court Official, none will do anything, and would wish the Petitioner would go away from them. Now they try to be polite. Years ago they just look the other way and said and did nothing. Some even participated to their chosen duties of the run around game, follow your leader, right or wrong. I am a citizen of the United States of America, what we have here is one of the uniquest form of government, and it is suppose to work properly becasue its intent was when first established.

Was this case fixed? Was this a normal case of Divorce in Georgia? It appears so, if not why has this happen? and why has it been

delayed and prolonged. No Order can be entered on the fact that the case was not appealable anywhere in the United States, abridging another Court from litigation of the same parties. Georgia refuses to draw the line. No Order can be entered in the State of Georgia nor any other place. No Order can be entered in Georgia that would carry the United States Constitution intentions showing favoritism to the other party or parties and breaking the law to do so. Therefore this petitioner requests that this Court demand for change; Set-aside in its entirety or do it so itself, and award damages in Double Cost.

TO COMMENCE AT:

1. The writing of the June 25, 1980 Order ($150,000.00) One hundred fifty thousand dollars.

2. For the delay each year thereafter ($1,600,000.00) One million six hundred thousand dollars.

Flossie W. Nzongola

Respectfully submitted

FLOSSIE W. NZONGOLA

P.O. BOX 43006

WASHINGTON, D.C. 20010

PRO SE

CERTIFICATE OF SERVICE

I, Flossie W. Nzongola, hereby states that the Attorney General for the State of Georgia, Mr. Michael Bowers, 132 State Judicial Building, Mitchell Street, Atlanta, Georgia, has been hand delivered this 27th day of July, 1989, a copy of this Writ for Certiorari.

Flossie W. Nzongola

Mrs. Flossie W. Nzongola

P. O. Box 43006

Washington, D.C. 20010

CERTIFICATE OF SERVICE

I, FLOSSIE W. NZONGOLA, hereby certify that a true copy of this Writ of Certiorari has been hand delivered to The Attorney General Office for the State of Georgia, to Mr. Mark Coner, 132 Mitchell Street, State Law Department, Atlanta, Georgia 30303 on this 21st day of November 1989.

Mrs. Flossie W. Nzongola

Mrs. Flossie W. Nzongola

REPRINTED COPY

APPENDIX A

SUPREME COURT OF GEORGIA

Atlanta,

February 14, 1989

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

FLOSSIE W. NZONGOLA

V.

NTALAJA NZONGOLA

AND THE SUPERIOR COURT OF FULTON COUNTY

Upon consideration of the application for discretionary appeal filed in this case, it is ordered that it be hereby denied.

It is also ordered that the Motion for Stay be denied.

All the Justices concur, except Weltner, J., disqualified.

SUPREME COURT OF THE
STATE OF GEORGIA
Clerk's Office, Atlanta
I certify that the above
is a true extract from
the minutes of the
Supreme Court of Georgia.
Witness my signature and
the seal of said court
hereto affixed the day
and year last above
written.

s/ Lynn M. Hogg,

LYNN M. HOGG
DEPUTY CLERK

APPENDIX B

FULTON SUPERIOR COURT

NTALAJA NZONGOLA

V.

FLOSSIE W. NZONGOLA

CIVIL ACTION FILE NO. C-61059

FINAL JUDGMENT AND DECREE

Upon consideration of this case upon evidence submitted as provided by law, it is the judgment of the court that a total divorce be granted, that is to say a divorce a viculo matrimonii, between the parties to the above stated case upon legal principles. And it is considered, ordered, and decreed by the court that the marriage contract heretofore entered into between the parties to this case, from and after this date, be and is set aside and dissolved as fully and effectually as if no such contract had ever been made or entered into, and

Plaintiff and Defendant, in the future shall be held and considered as separate and

distinct persons altogether unconnected by any nuptial union or civil contract, whatsoever, and both shall have the right to remarry.

(C)This Court further finds that the defendant was personally served with the Complaint in this action and on that date of service was a resident of Fulton County, Georgia. Accordingly, this Court has personal jurisdiction over the defendant.

(D)This Court further finds that defendant is entitled to no alimony, her counterclaim being dismissed for failure to appear.

(E)This Court dismisses any claim for child support without prejudice to their right to seek such support in a future court of competent jurisdiction.

(F) Finally, this Court finds that no party is entitled to any further attorney fees beyond the $400 previously awarded defendant's counsel.

The cost of these proceedings are taxed against

the Plaintiff .

Decree entered this 25 day of June , 1980.

s/Charles L. Weltner

CHARLES L. WELTNER

JUDGE SUPERIOR COURT

ATLANTA CIRCUIT

APPENDIX C

IN THE SUPERIOR COURT FOR THE

COUNTY OF FULTON

STATE OF GEORGIA

NTALAJA NZONGOLA,

Plaintiff

vs.

FLOSSIE W. NZONGOLA,

Defendant

CIVIL ACTION FILE NO. C-61059

ORDER

The Court's order of December 30, 1988, does in no way prohibit Flossie W. Nzongola from filing a notice of appeal to said order and the Clerk may accept such appeal. This Court will not authorize Flossie W. Nzongola to proceed on such appeal as a pauper, because her action and this proposed appeal is frivolous, being barred by time and by numerous prior final judgments. This order is not an authorization or certificate for a

discretionary or interlocutory appeal.

SO ORDERED this 13 day of January, 1989.

s/Frank M. Eldridge,

FRANK M. ELDRIDGE

JUDGE

Fulton Superior Court

Atlanta Judicial Circuit

APPENDIX D

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

FLOSSIE W. NZONGOLA

vs.

NTALAJA NZONGOLA; STATE OF GEORGIA; JUDGE CHARLES WELTNER, Fulton County Superior Court; JILL HOWARD, Attorney-at-Law; GEORGE O. LAWSON, Attorney-at-Law

C83-1538A

ORDER

The above-styled civil action has been filed pursuant to 42 U.S.C. § 1983 for the alleged deprivation of the plaintiff's constitutional rights. The action arises out of certain aspects of a divorce proceeding

initiated against the plaintiff in the Superior Court of Fulton County, Georgia, by defendant Nzongola, former husband of the plaintiff. The court has jurisdiction over the subject matter of this lawsuit under 28 U.S.C. § 1915(d) (1964).

The allegations contained within the body of the twenty-page complaint do not set forth a very coherent account of the events which purportedly are relevant to the instant dispute. Nevertheless, the court shall undertake the effort to relate the broad outline of alleged facts which have inspired the present litigation. They are as follows: On February 13, 1980, Nzongola filed a suit for divorce in Fulton County Superior Court alleging the ground that his marriage to the plaintiff was irretrievably broken. In petitioning the superior court for a divorce decree, Nzongola apparently stated that he was willing to contribute $250.00 per month in child support and to relinquish his claim to

any equitable interest in their home in College Park, Georgia, in lieu of a permanent alimony obligation. In response, the plaintiff engaged an attorney, the defendant Howard, to represent her in the divorce action. This attorney-client relationship began to founder at a preliminary stage in the divorce litigation when Howard allegedly counseled the plaintiff to "agree" to the terms proferred by her husband. Complaint at p 4. Howard was terminated from the plaintiff's employ prior to the actual trial. On June 25, 1980, a final judgment in the divorce action was rendered by Judge Charles Weltner. The court granted a dissolution of the marriage, dismissed the plaintiff's counterclaim for alimony due to her failure to appear at trial, and dismissed without prejudice any claim for child support. Nzongola v. Nzongola, No. C-61059 (Fulton County Super. Ct., Ga. 1980).

After entry of the final judgment and decree, the plaintiff contracted with defendant Lawson

for the performance of legal services directed at vacating the judgment. On June 2, 1981, Judge Weltner acted upon the plaintiff's motion to vacate by refusing to rescind the divorce decree although he did consent to the vacation of those matters relating to child support and a division of marital real property. At this juncture, the plaintiff and Lawson parted company, having reached an impasse as to whether to file a claim for support in Georgia (the forum preferred by Lawson) or the District of Columbia, where the plaintiff has resided since soon after the divorce action was filed.

Proceeding pro se, the plaintiff filed a motion in Fulton County Superior Court on July 2, 1981, seeking to "appeal" the issues of child support and real property division. Application for Appellate Review, Nzongola, supra No. D-61059. On September 22, 1981, the superior court entered an order requiring Nzongola to convey all of his interest in the

College Park property to the plaintiff and to pay child support in the amount of $300.00 per month. In the same order, the plaintiff's application for permanent alimony was denied. Order of September 22, 1981, Nzongola, supra No. 61059. Finally, upon a motion filed by Nzongola on February 13, 1983, Judge Weltner relieved him of any obligation to make further mortgage payments on the College Park property. Order of February 13, 1983, Nzongola, supra No. C-61059. The plaintiff contends that the mortgagee has since foreclosed on this property.

The gravamen of the complaint is that the various proceedings conducted and judicial decisions rendered throughout the above-described divorce litigation worked a deprivation of certain property interests (alimony and real property), violating the plaintiff's constitutional right to due process. In the plaintiff's view, the injuries which have flowed from the divorce proceedings

can be attributed to a conspiracy whose membership was comprised, at least in part, by the named defendants. The plaintiff seeks damages and, in an accompanying motion, the appointment of counsel. Since her original submission, the plaintiff has filed another pleading in which she moves to add the Fulton County Superior Court and Ralph Goldberg as defendants.

In evaluating the case at bar pursuant to 28 U.S.C. § 1915(d), the court is to determine whether the complaint is without arguable merit. Pace v. Evans, 709 F.2nd 1428, 1429 (11th Cir. 1983). The standard may be restated as an inquiry into whether the plaintiff's complaint alleges facts which, if proven, might arguably entitle her to relief. Id. Adopting this approach, the court's considered opinion is that the entire action is subject to dismissal. See generally Hughes v. Rowe, 449 U.S. 5 (1980).

To begin with, the state of Georgia is not

a proper party to this action. Although the state is named as a defendant by the style of the case, the body of the complaint is devoid of any allegations suggesting culpability on the part of the state as an entity which may be amenable to suit under section 1983. See Quern v. Jordan, 440 U.S. 332, 342-45 (1979); see also Ga. Const. art. 1, & art. 2, ¶ 9. Insofar as the plaintiff displays an intent to include the state as a party to this action, her complaint, as drafted, fails to allege any claim against that particular defendant. Rule 8(a), Fed. R. Civ. P.

That portion of the complaint which proceeds against Judge Weltner on the theory that he directed the conspiracy is also fatally defective. Complaint at p. 17. In Stump v. Sparkman, 435 U.S. 349, 356-57 (1978), the Supreme Court held that judges are wholly immune from civil liability arising out of their judicial acts so long as they have not exercised their authority in the clear

absence of all jurisdiction over the subject-matter. The state constitution in Georgia provides that superior courts shall have exclusive jurisdicion in divorce actions. Ga. Const. art. 6, § 4, ¶ 1. In the case in question, the plaintiff's allegations do not suggest that Judge Weltner stepped outside the bounds of this jurisdictional grant of authority in the course of the Nzongola divorce proceedings. Consequently, this principle of judicial immunity bars the plaintiff's damages claim against Judge Weltner.

The balance of the plaintiff's action seeks to attach section 1983 liability to her former husband and the two attorneys who acted in her behalf during various stages of the state court litigation. Although private parties, such as those just mentioned, are generally not liable under section 1983 because the necessary element of "state action" is lacking, Flagg Bros., Inc. v. Brooks, 436 U.S.

149, 155 (1978), they may be liable under 42 U.S.C. 1983 if they have been jointly engaged with state officials in the denial of civil rights. Adickes v. S. H. Kresge & Co., 398 U.S. 144, 152 (1972). In the case at bar, the plaintiff seeks to invoke the accepted theory that conspirators act under color of state law and can be sued for damages under section 1983 when they involve a state official in their plot, regardless of whether the state official himself is immune from such liability for his part in the scheme. Sparks v. Duval County Ranch Co., Inc., 604 F. 2d 976, 983 (5th Cir. 1979), aff'd sub nom. Dennis v. Sparks, 449 U.S. 24 (1980).

Although the plaintiff asserts a legal basis for proceeding with this portion of her action under section 1983, the allegations in the complaint do not set forth a factual basis to support the substance of the claim. Watson v. Ault, 525 F. 2d 886, 891 (5th Cir. 1976). The complaint includes these allegations:

George Lawson, Judge Weltner, Ntalaja Nzongola and Ralph Goldberg set out to make the [plaintiff]...[accept] the support case being litigated in Georgia." Complaint at p. 13. Nzongola sought "to gain his demands and begin with: (1) Judge Charles Weltner; (2) Attorney Ralph Goldberg; (3) Attorney Jill Howard." Id. at p. 9. Nzongola "does not want to make the mortgage payments on the house in Georgia and has conspired with the following to complete his goals:" Judge Weltner, Ralph Goldberg, and Jill Howard. Id. at p. 5. In reviewing these allegations, the court concludes that a section 1983 complaint containing such conclusory allegations of conspiracy unsupported by references to material facts fails to state a viable claim for relief. See Sparks, supra 604 F.2d at 978.

A pleading of conspiracy must present facts tending to show a common agreement among the involved parties and concerted action toward the agreed upon goal. Adickes, supra 398 U.S.

at 157. Plaintiff has not pleaded, nor will her allegations support an inference of, any such agreement or concerted action. As a result, this remaining aspect of the case at bar shall also be dismissed. See Sparks, supra 604 F.2d. at 978.

Accordingly, the plaintiff's motion to add defendants is DENIED. This action is DISMISSED in its entirety.

SO ORDERED, this 4th day of October, 1983.

s/Richard C. Freeman

RICHARD C. FREEMAN

UNITED STATES DISTRICT JUDGE